

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

NEW SECTION

WAC 458-16A-110 Senior citizen and disabled person exemption--Gross income. (1) **Introduction.** This rule explains the definition of gross income used for federal income tax. In order to meet the income requirements for the senior citizen and disabled person exemption program, the claimant must provide supporting documents verifying combined disposable income. The gross income for federal income tax purposes of the claimant, the claimant's spouse, and any cotenants represents a part of the claimant's combined disposable income.

(a) **Income tax return.** In most cases, the claimant presents copies of federal income tax returns to demonstrate both gross income and adjusted gross income amount(s) for the claimant, the claimant's spouse, and any cotenants. The assessor then determines the disposable income for each person based upon that person's income tax return and the other information supplied by the claimant.

(b) **No income tax return.** When the claimant does not present federal income tax returns, the assessor must determine what constitutes gross income for the nonfiler and obtain copies of income documents to determine that person's gross income. This rule provides the assessor with some guidance in determining the gross income for a nonfiler.

(c) **Verifying the gross income amount.** In some cases, the assessor may choose to verify income amount(s). The rule provides the assessor some guidance in verifying all or part of the gross income for the claimant, the claimant's spouse, or any of the cotenants.

(2) **Gross income determined.** Internal Revenue Code section 61 defines "gross income," generally, as all income from whatever source derived. WAC 458-16A-135 lists the documentation used to determine the income of the claimant.

(3) **Exclusions from the federal definition of gross income.** A claimant may provide documentation or information about amounts received during the year that are excluded from gross income. These amounts should not be taken into account when determining gross income. The federal definition of gross income, generally, does not include:

(a) Gifts, inheritance amounts, or life insurance proceeds;

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(b) Up to two hundred fifty thousand dollars (five hundred thousand dollars for a married couple) gain from the sale of a principal residence that meets the requirements of Internal Revenue Code section 121, see also WAC 458-16A-100 (definition of disposable income);

(c) Amounts received for illness or injury when received from workmen's compensation, a legal settlement, a legal judgment, a Medicare+Choice MSA, a federal employer under the federal Employees Compensation Act, accident insurance, or health insurance. If the amount received is from an employer directly for illness or injury or from employer-provided accident or health insurance, the amount is excluded only if it is paid to reimburse medical expenses, for the loss of limb, or for permanent disfigurement to the employee, the employee's spouse, or the employee's dependents;

(d) Contributions or payments made by an employer to accident and health plans, the employer's qualified transportation plan, a cafeteria plan, a dependent care assistance program, educational assistance programs, or for certain fringe benefits for employees described by Internal Revenue Code section 132. If the claimant earns wages as an employee, he or she should receive a W-2 form from the employer reporting those wages. This W-2 form should have already excluded the described contributions or payments provided for the employee's benefit in the above list. If a question arises about whether or not an employer adjusted the employee's gross income for these exclusions, the claimant should contact their employer and have the employer provide the county with a correct or corrected copy of the W-2 form to verify the correct wages paid to the employee;

(e) Income from discharge of indebtedness under certain limited circumstances, such as insolvency. These circumstances are outlined in Internal Revenue Code section 108;

(f) Improvements by a lessee left upon the lessor's property at the termination of a lease;

(g) Recovery of an amount deducted in a prior tax year that did not reduce federal income taxes paid in that prior year. For example, a person that itemized deductions may get a refund of property taxes or a stolen uninsured item will be returned. This refund or recovery is included in income unless the deduction did not result in a reduction of tax. It may not

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result in a reduction of tax because the person had to pay alternative minimum tax or taking away that deduction drops that person below the standard deduction amount. When the deduction did not reduce taxes, the recovery amount that did not reduce taxes is excluded. The assessor may request the claimant excluding such a recovery to present prior returns and worksheets such as the worksheets provided in Publication 525, *Taxable and Nontaxable Income*, to demonstrate how the exclusion was calculated;

(h) Qualified scholarships and fellowship grants provided for certain educational expenses (e.g., tuition and books). Internal Revenue Code section 117 provides a complete description of qualified scholarship and fellowship grant amounts excluded from gross income;

(i) Meals or lodging furnished to an employee for the convenience of the employer;

(j) Excluded military pay and benefits. These exclusions are defined in WAC 458-16A-100. A discussion of how to determine and calculate these benefits is found in WAC 458-16A-120;

(k) Amounts received under insurance contracts for certain living expenses: As a general rule, when an individual's principal residence is damaged or destroyed by fire, storm, or other casualty, or who is denied access to his principal residence by governmental authorities because of the occurrence or the threat of such a casualty, gross income does not include amounts received by such individual under an insurance contract which are paid to compensate or reimburse such individual for living expenses incurred for himself and members of his household resulting from the loss of use or occupancy of such residence;

(l) Certain cost-sharing payments made for conservation purposes on land owned by the claimant: Payments received from federal or state funds primarily to conserve soil, protect or restore the environment, improve forests, or provide a habitat for wildlife are excluded from gross income. In addition, the claimant may exclude energy conservation subsidies provided by public utilities from gross income. If the claimant indicates that he or she has received payments from the government or had improvements made to his or her residence or land by the government for conservation purposes, the assessor may ask for

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verification of the amount excluded (if any) from gross income and the information received by the claimant supporting this exclusion. See Internal Revenue Code sections 126 and 136;

(m) Child support payments;

(n) Qualified foster care payments made from the government or a qualified nonprofit to a foster parent or guardian. See Internal Revenue Code section 131;

(o) Income from United States savings bonds used to pay higher education tuition and fees. See Internal Revenue Code section 135;

(p) Distributions from a qualified state tuition program or a Coverdell Education Savings Account used to pay for higher education expenses. Distributions from a Coverdell Education Savings Account used to pay for elementary or secondary education expenses. See Internal Revenue Code sections 529 and 530.